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United States of America

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

2006 HONDA CBR600RR MOTORCYCLE,
VIN: JH2PC37166M301385,

Defendant.

Case No. '19CV1379 JLS BLM

**COMPLAINT FOR
FORFEITURE**

By way of complaint against the defendant, 2006 Honda CBR600RR Motorcycle (Motorcycle), plaintiff UNITED STATES OF AMERICA alleges:

I. NATURE OF THE ACTION

1. This is a civil action in *rem* brought against the defendant Motorcycle to enforce the provisions of Title 19, United States Code, Section 1595a(a), for the forfeiture of any vehicle, used in, to aid in, or to facilitate, the importation, bringing in, concealing, harboring, or subsequent transportation of a controlled substance, to wit: methamphetamine, as an article whose introduction or attempted introduction into the United States is contrary to law.

2. Methamphetamine is a controlled substance under Title 21, United States Code, Section 802, and is an article whose introduction or attempted introduction into the United States is “contrary to law” under Title 19, United States Code, Sections 1595a(a)

1 and a(c)(1)(B). Importation of methamphetamine is a felony violation of the Controlled
2 Substances Act under Title 21, United States Code, Sections 952 and 960.

3 **II. JURISDICTION AND VENUE**

4 3. This Court has original jurisdiction of this civil action under Title 28,
5 United States Code, Section 1345 because it has been commenced by the United States, and
6 under Title 28, United States Code, Section 1355(a), because it is an action for the recovery
7 and enforcement of a forfeiture under an Act of Congress.

8 4. Venue is proper pursuant to Title 28, United States Code, Section 1355(b)
9 because the acts and omissions giving rise to this forfeiture action occurred in the Southern
10 District of California, and under Title 28, United States Code, Section 1395 because the
11 property was found and is located in this district.

12 **III. PARTIES**

13 5. Plaintiff is the United States of America.

14 6. Defendant is 2006 Honda CBR600RR Motorcycle, VIN:
15 JH2PC37166M301385, seized on October 9, 2018 by the United States Customs and Border
16 Protection, from Alexander Guinto-Irra, at the San Ysidro, California Port of Entry within
17 the Southern District of California.

18 **IV. FACTS**

19 7. On October 9, 2018, Alexander Guinto-Irra, a.k.a. "Alexander Irra Guinto",
20 entered the pre-primary inspection area for entry into the United States at the San Ysidro,
21 California Port of Entry.

22 8. Alexander Guinto-Irra (Guinto-Irra) was the driver and sole occupant of a
23 black 2006 Honda CBR Motorcycle, VIN: JH2PC37166M301385, bearing California
24 license 18H3265.

25 9. On October 9, 2018, United States Customs and Border Protection (CBP)
26 Officer Bryan Bence and his narcotics and human detection dog "Roki" were on duty in
27 pre-primary inspection at the San Ysidro Port of Entry when Roki alerted to the engine of
28 the defendant Motorcycle being driven by Guinto-Irra.

1 10. CBP Officer Bence then requested assistance from CBP Officer
2 Celso Atienza, Jr. CBP Officer Atienza responded to the pre-primary lane and asked
3 Guinto-Irra if he was the owner of the Motorcycle and his destination. Guinto-Irra replied
4 that he was the owner of the Motorcycle and that he was going to Chula Vista, California.
5 Guinto made two negative U.S. Customs declarations to CBP Officer Atienza.

6 11. Guinto-Irra, a United States citizen, presented a United States passport to CBP
7 Officer Atienza. As Guinto-Irra pulled his passport book from the pocket of his sweatshirt,
8 a small plastic bag with crystal fell out onto the ground.

9 12. Guinto-Irra was detained for officer safety and further inspection.

10 13. CBP Officer Antonio J. Angarita then inspected the defendant Motorcycle in
11 the secondary inspection lot. This inspection revealed a concealed package wrapped in clear
12 plastic in the right side of the steering wheel of the Motorcycle. A field test of the contents
13 tested positive for methamphetamine.

14 14. CBP Officer Angarita discovered four (4) packages wrapped in plastic under
15 the exterior molding on the front right side of the steering components, one (1) package
16 wrapped in plastic under the plastic molding in the rear right side next to the driver's seat,
17 and two (2) more packages underneath the molding on the front left side of the steering
18 components.

19 15. A total of seven (7) packages wrapped in plastic were removed from the
20 defendant Motorcycle. The total weight of the packages containing the crystalline substance
21 was approximately 756 grams or 1.67 lbs. The results from the drug lab tests of the
22 crystalline substance reflect approximately 722.6 grams of methamphetamine.

23 16. Post-Arrest, Guinto-Irra was advised of his *Miranda* rights. Guinto-Irra stated
24 that he understood those rights and was willing to answer questions without an
25 attorney present.

26 17. Guinto-Irra stated that he had taken the Motorcycle to a shop in Mexico in
27 order to have a problem with the motorcycle fixed by an individual named "Tacon", who
28 //

operates the shop. Guinto-Irra further stated that the shop did not have a name. Guinto-Irra stated that Tacon is also involved in smuggling drugs.

18. Guinto-Irra stated that he picked up the Motorcycle from the shop before crossing into the United States. Guinto-Irra denied knowledge of the methamphetamine found in the Motorcycle. Guinto-Irra stated that he was “pretty sure” Tacon had put the methamphetamine in the Motorcycle.

19. Guinto-Irra stated that he had previously used the Motorcycle to smuggle methamphetamine across the border for Tacon. Guinto-Irra stated that on five (5) prior occasions he had smuggled methamphetamine across the border and that each of those times he smuggled approximately one pound of methamphetamine across the border for Tacon.

20. Guinto-Irra further stated that on four (4) of the five (5) prior smuggling events he had stored the methamphetamine in his backpack, and on one (1) prior occasion he stored the methamphetamine under the seat of the Motorcycle.

21. Guinto-Irra stated that on those prior smuggling events he delivered the methamphetamine to an individual named “Charro” at the Arco gas station on Main Street in Chula Vista, California.

22. Guinto-Irra stated that he was paid \$350 dollars each of the five (5) prior times that he smuggled methamphetamine.

23. Guinto-Irra stated that on two (2) prior occasions he also transported money from the United States back into Mexico.

24. Text messages extracted from Guinto-Irra’s cellular phone (Samsung Galaxy S8 358330081215716) include communications between September 24, 2018 and October 9, 2018 with an individual identified in text as “El Tacon” and “Tacon.” These text messages include discussion about doing a job.

25. On or about October 16, 2018, Guinto-Irra was charged by Complaint in the Superior Court of California, County of San Diego with three (3) felony counts: Count (1), transportation of a controlled substance, to wit: methamphetamine, in violation of California Health and Safety Code Section 11379(a) and Penal Code Section 1210(a); and Count (2),

1 importation of a controlled substance, to wit: methamphetamine, into California, in
2 violation of California Health and Safety Code Section 11379(a) and Penal Code Section
3 1210(a); and Count (3), possession for sale of a controlled substance, to wit:
4 methamphetamine, 28.5 grams or more of methamphetamine or 57 grams or more of a
5 substance containing methamphetamine, in violation of California Health and Safety Code
6 Section 11378 and Penal Code Sections 1203.073(b)(2), and 1210(a).

7 26. On November 9, 2018, CBP sent notice to Guinto-Irra, advising him of the
8 seizure of the defendant Motorcycle and that the defendant motorcycle was subject
9 to forfeiture.

10 27. On November 19, 2018, Guinto-Irra submitted a claim to CBP asserting an
11 ownership interest in the defendant Motorcycle and requested the initiation of judicial
12 forfeiture proceedings.

13 28. Guinto-Irra failed to submit a cost bond with his claim as required by Title 19,
14 United States Code, Section 1608. On December 3, 2018, CBP sent a letter to Guinto-Irra
15 to remind him of the cost bond requirement. *Id.* On December 17, 2018, Guinto-Irra
16 submitted a cost bond for \$415.00.

17 29. On or about December 12, 2018, an Information was filed in the Superior
18 Court of California, County of San Diego, charging Guinto-Irra with three (3) felony counts:
19 Count (1), transportation of a controlled substance, to wit: methamphetamine, in violation
20 of California Health and Safety Code Section 11379(a) and Penal Code Section 1210(a);
21 and Count (2), importation of a controlled substance, to wit: methamphetamine, into
22 California, in violation of California Health and Safety Code Section 11379(a) and Penal
23 Code Section 1210(a); and Count (3), possession for sale of a controlled substance, to wit:
24 methamphetamine, 28.5 grams or more of methamphetamine or 57 grams or more of a
25 substance containing methamphetamine, in violation of California Health and Safety Code
26 Section 11378 and Penal Code Sections 1203.073(b)(2), and 1210(a).

27 30. On or about March 13, 2019, Guinto-Irra failed to appear for trial in Superior
28 Court of California, County of San Diego. On or about March 14, 2019, the Court issued a

1 bench warrant for Guinto-Irra's arrest for his failure to appear. The bench warrant is
2 outstanding. Guinto-Irra's status is a fugitive as of the date of the filing of this Complaint.

3 31. The appraised value of the defendant Motorcycle is approximately \$4,175.00.

4 32. The defendant Motorcycle is presently being stored by CBP within the
5 Southern District of California.

6 **V. CLAIM FOR RELIEF**

7 33. The United States incorporates by reference the allegations in paragraphs
8 one (1) through thirty-two (32) as though fully set forth. By reason of the foregoing, there
9 is probable cause to believe that the defendant Motorcycle was used to aid in, and to
10 facilitate the importation, bringing in, and concealing of a controlled substance, to wit:
11 methamphetamine, which is an article, whose introduction and attempted introduced into
12 the United States is contrary to law, and therefore the defendant Motorcycle is subject to
13 forfeiture to the United States pursuant to Title 19, United States Code, Section 1595a(a).

14 **WHEREFORE**, the United States prays that due process issue to enforce the
15 forfeiture of the defendant Motorcycle, and that due notice be given to all interested parties
16 to appear and show cause why said forfeiture should not be declared, that the defendant
17 vehicle be condemned as forfeited to the United States to be disposed of according to law,
18 and for such other relief as this Court may deem just and proper.

19
20 DATED: July 24, 2019

Respectfully submitted,

21 ROBERT S. BREWER, JR.
22 United States Attorney

23 s/ David J. Rawls
24 DAVID J. RAWLS
25 Assistant United States Attorney
26 Attorney for the United States
27
28

VERIFICATION

I, GREG PETTIGREW, state and declare as follows:

1. I am a Special Agent with the Department of Homeland Security, and am one of the federal law enforcement officers involved in this investigation.

2. I have read the foregoing Complaint For Forfeiture and know its contents.

3. The facts set forth in the Complaint For Forfeiture are based upon my own knowledge or were facts furnished to me by other United States federal, state, or local law enforcement personnel, civilian witnesses, or other official Government sources.

Based on this information, I believe the allegations in the Complaint For Forfeiture to be true.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge and belief.

Executed on July 24, 2019.



GREG PETTIGREW, SPECIAL AGENT
HOMELAND SECURITY INVESTIGATIONS

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

AUSA David J. Rawls, Phone: (619) 546-7966

USAO, 880 Front Street, Room 6293, San Diego, CA 92101-8893

DEFENDANTS2006 Honda CBR600RR Motorcycle, VIN:
JH2PC37166M301385,

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known) **'19CV1379 JLS BLM****II. BASIS OF JURISDICTION**

(Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input checked="" type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
19 U.S.C. Section 1595a(a)

Brief description of cause:
Aiding Unlawful Importation

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

07/24/2019

s/ David J. Rawls

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____